UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

		Application No.	Applicant(s)
Office Action Summary		10/541,577	TAZINE ET AL.
		Examiner	Art Unit
		Joseph Saunders	2615

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>13 May 2008</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-25</u> is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-19</u> is/are rejected.

7)☒ Claim(s) <u>20-25</u> is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>05 July 2005</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☒ All   b)☐ Some *   c)☐ None of:

         1.☒ Certified copies of the priority documents have been received.

         2.☐ Certified copies of the priority documents have been received in Application No. _____.

         3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This office action is in response to the communications filed May 13, 2008.

Claims 1 – 25 are currently pending and considered below.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3.   Claims 1, 2, 4 – 10, 12, 13, and 16 – 19 are rejected under 35 U.S.C. 102(e) as

being anticipated by Obrador (US 7,149,755 B2), hereinafter Obrador.

Claim 1: Obrador discloses a method for creating or accessing a menu for audio content

stored in a storage means, the content consisting of audio tracks, and the menu

containing representations of said audio tracks, the method comprising: classifying

("organized") the audio tracks ("As used herein, the term "media object" refers broadly

to any form of digital content, including text, audio, graphics, animated graphics and

full0motion video," Column 3 Lines 55 – 58 also "digital content may be compressed

using a compression format that is selected based upon the digital content type (e.g., an

MP3 or a WMA compression format for audio works," Column 4 Lines 3 – 6) into groups

or clusters (see "Browsing a Media Object Cluster Hierarchy," Column 9), wherein said

classification is performed according to characteristic parameters of said audio tracks

("The metadata similarity may correspond to low-level features (e.g., motion activity,

texture or color content, and audio content) or high-level features (e.g., meta data, such

as keywords and names; objects, such as persons, places and structures; and time-

related information, such as playback length and media object creation date). One or

more known media object processing techniques (e.g., pattern recognition techniques,

voice recognition techniques," Column 9 Lines 53 – 67); detecting addition of a new

audio track; determining characteristic parameters of the new audio track; based on the

determined characteristic parameters of the new audio track classifying the new audio

track into an existing group or cluster ("At any stage during this process, the user may

anchor a particular media object and organize the media object collection around the

anchored media object in accordance with one or more selected metadata similarity

criteria," Column 11 Lines 17 – 21); selecting automatically an audio track being a

representative for the cluster into which the new audio track was classified, wherein the

medoid of the cluster is selected ("For example, the media objects may be ordered in

accordance with a selected context criterion, and the representative media object may

correspond to the centroid or some other statistically-weighted average of a selected

cluster of the ordered media objects," Column 10 Lines 35 – 39); automatically

generating a reproducible audio extract from said representative audio track; and

associating said audio extract as representative of said cluster to a menu list ("Media

objects 98 may be indexed with logical links into the set of data structure sequences, as

shown in Fig. 8A. Each data structures sequence link into a media file may be identify a

starting point in the media file and the length of the corresponding sequence," Column 7

Lines 46 – 50 also "The media file and the media objects preferably are presented to

the user through multimedia album page, which is a windows-based GUI that is

displayed on a display monitor 42 (Fig. 2)," Column 8 Lines 3 – 7).

Claim 2: <u>Obrador</u> discloses the method according to claim 1, wherein said

characteristic parameters used for classification of audio content comprise one or more

audio descriptors, the audio descriptors being either physical features, or perceptual

features, or psychological or social features of the audio content ("The metadata

similarity may correspond to low-level features (e.g., motion activity, texture or color

content, and audio content) or high-level features (e.g., meta data, such as keywords

and names; objects, such as persons, places and structures; and time-related

information, such as playback length and media object creation date). One or more

known media object processing techniques (e.g., pattern recognition techniques, voice

recognition techniques," Column 9 Lines 53 – 67)

Claim 4: <u>Obrador</u> discloses the method according to claim 1, wherein the audio tracks

within a cluster have variable order, so that the user listens to a randomly selected track

when having selected a cluster, with said track belonging to said cluster (variable based

on similarity).

Claim 5: <u>Obrador</u> discloses the method according to claim 1, wherein a user can modify the result of automatic classification of audio tracks (e.g., by choosing a different anchor).

6. Method according to claim 1, wherein a user can modify the classification rules for automatic classification of audio tracks (e.g., by choosing a different anchor).

Claim 7: <u>Obrador</u> discloses the method according to claim 1, wherein the actual audio data are clustered within said storage means according to said menu ("The media file and the media objects preferably are presented to the user through multimedia album page, which is a windows-based GUI that is displayed on a display monitor 42 (Fig. 2)," Column 8 Lines 3 – 7).

Claim 8: <u>Obrador</u> discloses the method according to claim 1, wherein the audio extract is a sample from the audio track ("Media objects 98 may be indexed with logical links into the set of data structure sequences, as shown in Fig. 8A. Each data structures sequence link into a media file may be identify a starting point in the media file and the length of the corresponding sequence," Column 7 Lines 46 – 50).

Claim 9: <u>Obrador</u> discloses the method according to claim 1, wherein audio extracts are created additionally for audio tracks not being representatives of clusters ("Media objects 98 may be indexed with logical links into the set of data structure sequences, as shown in Fig. 8A. Each data structures sequence link into a media file may be identify a

starting point in the media file and the length of the corresponding sequence," Column 7

Lines 46 – 50).

Claim 10: <u>Obrador</u> discloses the method according to claim 1, wherein the length of

audio extracts is not predetermined ("Media objects 98 may be indexed with logical links

into the set of data structure sequences, as shown in Fig. 8A. Each data structures

sequence link into a media file may identify a starting point in the media file and the

length of the corresponding sequence," Column 7 Lines 46 – 50.

Claim 12: <u>Obrador</u> discloses the method according to claim 1, wherein said menu is

hierarchical, such that a cluster may contain one or more subclusters (see "Browsing a

Media Object Cluster Hierarchy," Column 9).

Claim 13: <u>Obrador</u> discloses the method according to claim 1, wherein the classification

rules are modified automatically if a defined precondition is detected, and a

reclassification may be performed (e.g., by choosing a different anchor).

Claim 19: <u>Obrador</u> discloses the method according to claim 1, wherein the audio extract

is an audio sequence being synthesized from the actual audio track ("Media objects 98

may be indexed with logical links into the set of data structure sequences, as shown in

Fig. 8A. Each data structures sequence link into a media file may be identify a starting

point in the media file and the length of the corresponding sequence," Column 7 Lines

46 – 50.

Claims 16 – 18 are substantially similar in scope to claim 1 and is also disclosed in

Figure 2, and therefore is rejected for the same reasons as claim 1 with addition of

Figure 2.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Obrador in view of Platt (US 6,987,221), hereinafter Platt.

Claim 3: Obrador discloses the method according to claim 1, but does not disclose

whether or not an audio track can be classified into more than one cluster. Platt

discloses a similar clustering technique for audio and while not explicitly stated teaches,

since the tracks are placed in the playlist based upon the results of a vector which is

based upon multiple attributes of the item (Column 10 Lines 9 – 48). Therefore, it would

have been obvious to one of ordinary skill in the art that when generating multiple

playlists as disclosed by Platt that the system of Platt may decide that a song may have

the minimum required attributes necessary to match more than one playlist category
and therefore be classified in more than one playlist. Since excluding songs from being
in more than one playlist would be disadvantages to the user, since the user wants the
best matching songs in each playlist. Therefore, when applying a similar technique in
Obrador, it would have been obvious to one of ordinary skill in the art at the time of the
invention to generate clusters in a similar manner.

Claim 11: Obrador discloses the method according to claim 1, but does disclose
wherein one of said clusters has no representative track. Platt discloses a similar
clustering technique for audio and while not explicitly stated teaches how to determine
the order among seed items when more than one seed item is selected. And therefore
while one of ordinary skill in the art may consider any one of the seed items in this case
to be the representative track, it would also have been obvious to one of ordinary skill in
the art at the time of the invention that a representative track does not exist since a
determination cannot be made among seed items. Therefore, when applying a similar
technique in Obrador, it would have been obvious to one of ordinary skill in the art at the
time of the invention to generate clusters in a similar manner.

6.   Claims 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable
over Obrador in view of Mercer et al. (US 7,043,477), hereinafter Mercer.

Claims 14 and 15: <u>Obrador</u> discloses the method according to claim 13, but does not disclose wherein said precondition comprises that the difference between the number of tracks in a cluster and the number of tracks in another cluster reaches a maximum limit value, and wherein said precondition comprises that all stored tracks were classified into one cluster, and the total number of tracks reaches a maximum limit value. <u>Mercer</u> discloses where bounds are set when determining the size of playlists (Column 8 Line 40 - Column 9 Line 62). Therefore, it would have been obvious to one of ordinary skill in the art given the teaching of <u>Mercer</u> to incorporate a limit between two playlists or a single sequence in the invention of <u>Obrador</u> to determine how classification is performed, thereby allowing for example "If composer information is available for some of the selected media files (e.g., "if greater than twenty-five percent), the authoring software creates a menu 'Composer' ..." thereby further automating the classification process, <u>Mercer</u> Column 9 Lines 22 – 27.

Allowable Subject Matter

7.   Claims 20 – 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8.   Applicant's arguments with respect to claims 1 – 19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Joseph Saunders whose telephone number is (571)

270-1063. The examiner can normally be reached on Monday - Thursday, 9:00 a.m. -

4:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Suhan Ni can be reached on (571) 272-7505. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. S./
Examiner, Art Unit 2615

/Suhan Ni/
Primary Examiner, Art Unit 2614